

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ALAN HOUGHTON,

Plaintiff,

v.

CIVIL ACTION NO. 5:11-cv-01000

JOEL ZIEGLER,

Defendant.

**MEMORANDUM OPINION AND ORDER ADOPTING PROPOSED FINDINGS
AND RECOMMENDATION**

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On December 22, 2011, the Magistrate Judge submitted *Proposed Findings and Recommendation* (“PF&R”) (Document 5) wherein it is recommended that the Court dismiss *Plaintiff’s Complaint* (Document 1) and remove this matter from the Court’s docket.¹

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need


¹ The Magistrate Judge correctly construed Plaintiff’s Application under 28 U.S.C. § 2241 for *Writ of Habeas Corpus* as a *Bivens* action.

not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). Plaintiff's objections were due on January 9, 2012. To date, no objections have been filed.

Accordingly, the Court **ORDERS** that the recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation* (Document 5) be **ADOPTED** and **ORDERS** that *Plaintiff's Complaint* (Document 1) be **DISMISSED**. Further, the Court **ORDERS** *Plaintiff's Application to Proceed Without Prepayment of Fees* (Document 6) be **DENIED AS MOOT**. The Clerk is directed to **REMOVE** this matter from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: January 18, 2012


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA